

INFORMATION PAPER: Teaching, Speaking and Writing

DA-SOCO
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1. **Purpose:** To provide guidance regarding teaching, speaking and writing related to official duties.
2. **Honoraria:** Part of the Ethics Reform Act (1989) prohibited Federal military and civilian employees from receiving any honorarium (i.e., payment of money or thing of value) for an appearance, speech, or article. *This prohibition did not require a connection between the employee's official duties and the subject matter of the appearance, speech, or article.* The honoraria prohibition was challenged in court. In U.S. v. National Treasury Employees Union, 115 S.Ct. 1003, the Supreme Court ruled that the law was an unconstitutional restriction on the freedom of speech of Federal employees. Subsequent to the opinion, the Department of Justice determined that the Supreme Court opinion effectively voided the honoraria ban for all military and civilian employees, regardless of rank or grade.
3. **Regulations:** There are several ethics regulations relevant to teaching, speaking and writing -- all equally important:
 - a. 5 C.F.R. § 2635.703: Employees may not use nonpublic information to further their own private interests or those of another. Nonpublic information is information that is not available to the general public. Includes information not releasable under FOIA, protected by Privacy Act, or classified.
 - b. 5 C.F.R. § 2635.807 prohibits the acceptance of compensation for teaching, speaking, or writing when (1) The activity is undertaken as part of the employee's official duties; (2) The invitation was extended because of the employee's official position rather than his/her expertise; (3) The invitation is from a person whose interest may be affected by the employee's official duties; (4) The presentation is based on nonpublic information; (5) The topic deals with the employee's current duties or those during the previous year; or (6) The topic deals with a policy, program, or operation of the employee's agency. The rationale is to prevent an employee from selling to others what the Government already pays him/her to do.
 - c. Joint Ethics Regulation (JER) § 2-207: DoD employees who permit the use of their military grade, title, or position while teaching, speaking, or writing regarding DoD policies, programs, or operations shall indicate that the views are those of the speaker and not DoD or its components.
 - d. JER § 3-307: A lecture, speech, or writing that pertains to military matters, national security issues, or subjects of significant DOD concern shall be reviewed for clearance by appropriate security and public affairs offices.

4. All requests for speaking, writing and teaching for topics, subjects and experiences that are related to official duties shall be reviewed by an Ethics Counselor. In order to render an effective ethics opinion, Counselors are encouraged to obtain all of the relevant information, e.g. complete description of the subject matter, theme, setting, nature of experience(s), characters, and military information (weapons, ordnance, aircraft, vessels, operations, tactics/strategy). Whether the writing or presentation contain classified material. Whether the presentation or writing will be illustrated, or contain pictures, maps or drawings, and the source of the documents. Finally, whether the writing or presentation has been passed through the Public Affairs Officer.

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